IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

CRP.No. 1460 of 2003(A)

AGAINST THE ORDER IN I.A.1352/02 IN OS.197/1999 of MUNSIFF COURT, THALASSERY

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REVN. PETITIONERS: PETITIONERS:
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1. ARAYADATH SAVITHRI AMMA,
W/O. SUKUMARAN NAMBIAR, AGED 54 YEARS,
NO OCCUPATION.

2. KOMALAKRISHNAN, S/O. SUKUMARAN,
AGED 27 YEARS, NO OCCUPATION.

3. SREEJA, D/O. SUKUMARAN,
AGED 25 YEARS, NO OCCUPATION.

4. DURGA, D/O. SUKUMARAN,
AGED 24 YEARS, NO OCCUPATION.
(ALL ARE RESIDING AT MADHAVA NIVAS, CHORAKULAM, MAVILAYIL AMSOM AND DESOM, KANNUR DISTRICT).

BY ADV. SRI.A.MOHAMED MUSTAQUE

RESPONDENTS: RESPONDENTS:
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1. THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
POSTAL DEPARTMENT, NEW DELHI.

2. THE SUPERINTENDENT OF POST OFFICE,
KANNUR, KANNUR DIVISION.

3. THE SUB POST MASTER,
KADACHIRA POST OFFICE, P.O. KADACHIRA.

4. K.O.USHA, D/O.E.K.KUNHIRAMAN NAMBIAR,
NO OCCUPATION, KAYATTUPARAMBA HOUSE,
MAKRARI AMSOM AND DESOM P.O., MAKRARI,
KANNUR DIST.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1460 OF 2003

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Dated this the 10th day of July, 2007.

O R D E R

This CRP is preferred against the order of the learned Munsiff, Thalassery in I.A.1352/02 in O.S.197/99 rejecting the prayer for review of the order dated 27.6.02. The plaintiff had instituted a suit and he filed 1/10th of the Court fee but did not pay the balance Court fee as stipulated under Section 4(a) of the Court Fees Act. When the case was called on 27.6.02 it is submitted, then only it came to the notice of the counsel that Court fee has not been paid and it was a mistake on his part and it was not willful. Since the Court fee was not paid within the stipulated prescribed time, the Court below rejected the plaint. It is to review that order the present I.A.1352/02 was filed. The Court below rejected that application mainly on the ground that there was no petition to extend time for payment of Court fee and one cannot pay Court fee without the order of the Court by extending the time. The learned counsel for the revision petitioner submits that all that had happened was on account of a bonafide mistake. It is true that there was no application to enlarge time for payment of Court fee since it is paid beyond the period of 30 days under Section 149 CPC. If there are really

bonafides in not making the payment certainly an opportunity has to be given to the petitioner to cure those defects. Therefore, the order under challenge is set aside and the review application is restored and the Court below is permitted to reconsider the matter after permitting the present review petitioner to file an application under Section 149 CPC for belated payment of Court fee. It is needless to say that the other side also should be heard before finally disposing the matter. Parties are directed to appear before the Court below on 4.8.2007.

M.N. KRISHNAN, JUDGE.

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M.N. KRISHNAN, J.

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C.R.P. No. 1460 OF 2003

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O R D E R

10th July, 2007.